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December 12, 2005

Chairman Ron Jones  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

Re: Supplemental Response of Sprint Nextel Corporation to Data Requests No. 1 of  
the Tennessee Regulatory Authority – Docket No. 05-00240

Dear Chairman Jones:

Please find attached the original and thirteen (13) copies of Sprint Nextel's Supplemental Response to Question No. 1 of the Tennessee Regulatory Authority's Data Request No. 1.

Please do not hesitate to contact me if you have any questions concerning this matter.

Sincerely yours,

A handwritten signature in cursive script that reads "Edward Phillips".

Edward Phillips

HEP:sm

Attachments

Cc: Don Scholes (w/attachments)

Tennessee Regulatory Authority, Docket No. 05-00240  
Application of Sprint Nextel Corporation for Approval of the Transfer of Control of United  
Telephone-Southeast, Inc.; Sprint Long Distance, Inc.; and Sprint Payphone Services, Inc. from  
Sprint Nextel Corporation to LTD Holding Company  
TRA Data Request No. 1

Question 1:

Have the petitioners filed similar petitions or notices in other states? If so, provide a listing of states and action taken.

Response:

Sprint Nextel Corporation ("Sprint") has filed similar applications in thirteen (13) other states. Approvals of the applications have been granted in a number of states while procedural action has occurred in all remaining states where approval has not been granted. Please note that the states in which recommendations for approval or actual approval has been obtained are discussed in some detail while those states in which only procedural action has occurred are merely listed. The (13) thirteen states in which applications have been filed are as follows:

Florida	On October 13, 2005, the Florida Public Service Commission ("FPSC") issued Order No. PSC-05-0985-PAA-TP "Notice of Proposed Agency Action - Order Approving Transfer of Control" in Docket No. 050551-TP. The Communication Workers of America have filed a protest of this proposed agency action. The FPSC will be addressing this matter on December 20, 2005.
Kansas	
Minnesota	On November 17, 2005, the Minnesota Department of Commerce recommended approval of Sprint Nextel's application for transfer of control.
Missouri	
Nebraska	On November 1, 2005, the Nebraska Public Service Commission ("Nebraska PSC") voted unanimously to approve Sprint Nextel's application for transfer of control (Application No. C-374). The Nebraska PSC issued its order on that same day, a copy has already been provided to the Authority Staff in a previous supplemental response.
Nevada	On December 5, 2005, the Public Utilities Commission of Nevada voted unanimously to approve Sprint Nextel's application of transfer of control in Docket No. 05-8032. The Nevada Commission has yet to issue its order.

Tennessee Regulatory Authority, Docket No. 05-00240  
Application of Sprint Nextel Corporation for Approval of the Transfer of Control of United  
Telephone-Southeast, Inc.; Sprint Long Distance, Inc.; and Sprint Payphone Services, Inc. from  
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New Jersey

Ohio                      On December 7, 2005, the Public Utilities Commission of Ohio voted unanimously to approve Sprint Nextel's application for transfer of control. This action is memorialized by the Ohio Commission's order entered in Case No. 05-1040-TP-ACO. A copy of the Ohio order is attached.

Pennsylvania            A hearing was held on December 2, 2005. Sprint Nextel is awaiting a decision from the Pennsylvania Public Utility Commission.

South Carolina           On December 8, 2005, the Public Service Commission of South Carolina entered Order No. 2005-690 in Docket No. 2005-246-C approving Sprint Nextel's application for transfer of control. A copy of Order No. 2005-690 is attached.

Virginia

Washington

Wyoming                      On October 25, 2005, the Wyoming Public Service Commission voted unanimously to approve Sprint Nextel's application for transfer of control. This material was updated in a prior supplemental response filed on November 3, 2005; however, the order had not yet been entered. The Wyoming Commission entered its order on December 2, 2005. A copy of the Wyoming Order is being provided with this update.

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Application of )  
Sprint Nextel Corporation and LTD Holding )  
Company for Consent and Approval of a ) Case No. 05-1040-TP-ACO  
Transfer of Control. )

OPINION AND ORDER

BACKGROUND:

On August 23, 2005, Sprint Nextel Corporation (Sprint Nextel) and LTD Holding Company filed a joint application and supporting direct testimony of four witnesses, pursuant to Section 4905.402, Revised Code, seeking approval of a transfer in ownership whereby ownership of United Telephone Company of Ohio (United of Ohio), Sprint Long Distance, Inc. and United Telephone of Indiana, Inc. (United of Indiana) (collectively United Companies) would be transferred from Sprint Nextel to LTD Holding Company (collectively Joint Applicants). Concurrent with the application, the Joint Applicants filed a motion for protective order keeping confidential the designated testimony of joint applicant witnesses Mark Gast and Kevin Collins. On September 16, 2005, the Joint Applicants filed a public and non-public supplement to the joint application along with the motion for protective treatment of the non-public version. By order issued on September 21, 2005, the Commission suspended the automatic approval of the case.

On August 31, 2005, the office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene and memorandum contra the joint motion for a protective order. On September 8, 2005, OCC filed a motion for full suspension, motion to establish procedures and motion for hearing. The Joint Applicants filed a reply to the memorandum contra the protective order on September 7, 2005, a memorandum contra OCC's motion to intervene on September 13, 2005 and memorandum contra the full suspension, motion to establish procedures and motion for hearing on September 16, 2005. OCC filed a reply to Joint Applicants' memorandum contra the motion to intervene and the motion for suspension on September 19, 2005.

Also filing a motion to intervene, motion for full suspension, motion to establish procedures and motion for hearing was the Communications Workers of America (CWA) on September 22, 2005. The Joint Applicants filed a memorandum contra the September 22, 2005 CWA motions on October 5, 2005. After filing an unopposed motion for a brief

extension of time,<sup>1</sup> the CWA filed a reply to the Joint Applicants' memorandum contra on October 19, 2005.

#### SCOPE OF REVIEW:

Section 4905.402, Revised Code, states that no person shall acquire control, directly or indirectly, of a domestic telephone company or a holding company controlling a domestic telephone company unless that person obtains the Commission's approval. To obtain approval, that person must file an application "demonstrating that the acquisition will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge." If, after review of the application and any necessary hearing, the Commission is "satisfied that approval of the application will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge, the Commission shall approve the application and make such order as it considers proper."

#### SUMMARY OF THE TRANSACTION:

The Joint Applicants submit that this transfer of ownership involving the wireline operations of the United Companies to LTD Holding Company was contemplated in the merger agreement entered into between Sprint Corporation (Sprint) and Nextel Communications, Inc. (Nextel) on December 15, 2004. In that merger agreement, Sprint and Nextel agreed to use their reasonable best efforts to separate the incumbent local exchange carrier (ILEC) wireline business of Sprint, by means of a tax-free spin-off, to the then existing stockholders of Sprint Nextel. The Joint Applicants have now filed the pending joint application to consummate the spin-off contemplated by the December 15, 2004 merger agreement. As a result of the spin-off application in this case, the local wireline operations formerly held by Sprint Nextel are being spun off to new holding company, LTD Holding Company, which will operate independently from Sprint Nextel.

LTD Holding Company is a newly formed independent subsidiary wholly owned by the shareholders of Sprint Nextel. Upon this separation, LTD Holding Company will realize control of United of Ohio, Sprint Long Distance, Inc. and United of Indiana along with other ILEC wireline operations formerly held by Sprint Nextel. Further, at separation, LTD Holding Company will operate independently from Sprint Nextel and will have its own management team and board of directors. Additionally, LTD Holding Company will be the largest independent local telephone company in the United States, with annual revenues exceeding \$6 billion. United of Ohio is an Ohio corporation with its headquarters in Mansfield, Ohio. Sprint Long Distance, Inc. was recently certificated by this Commission in order to provide resold long distance services to the customers of

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<sup>1</sup> Insofar as the motion for extension of time filed by the CWA was not opposed by Joint Applicants, the motion is granted.

United of Ohio after the spin-off. United of Indiana is an Indiana corporation authorized by the Commission to provide local telephone services to customers in Union City, Ohio. As a result of the transaction, control of United of Ohio, Sprint Long Distance, Inc. and United of Indiana will be transferred from Sprint Nextel to LTD Holding Company. From an operational perspective, the Joint Applicants assert that little will change. The United Companies will continue to be the entities operating in Ohio, and they will continue to have the same technical, financial and managerial ability to provide the services that they do today.

Joint Applicants assert that the proposed transfer of control will promote the public convenience and will result in the provision of adequate service for a reasonable rate, rental, toll or charge. Joint Applicants also represent that the proposed transfer will not affect the United Companies' technical, managerial or financial capabilities. Benefits of the separation, according to the Joint Applicants, include a single-minded focus on local markets, an emphasis on meeting the needs of the local customer, a clear alignment of interests and the transparency of the transaction to customers.

Further, Sprint Nextel and LTD Holding Company assert that the joint application should be approved absent a hearing due to their belief that the transfer does not implicate any potential concerns that will be harmful to competition and will be transparent and seamless to customers. Therefore, this transaction is distinguishable from the other cases in which the Commission has determined that a hearing is necessary under Section 4905.402, Revised Code.

#### TESTIMONY IN SUPPORT OF THE JOINT APPLICATION:

As noted above, the Joint Applicants offered the sworn testimony of four witnesses in support of the joint application. That testimony will be discussed in turn below.

##### A. Barry A. Counts

The first witness to testify in support of the joint application was Barry A. Counts. Mr. Counts is employed by Sprint/United Management Company as a State Executive for Ohio and Indiana. Mr. Counts offered testimony describing the separation of Sprint's wireline telecommunications businesses from the rest of Sprint as well as the transfer of control to the new holding company, LTD Holding Company. Additionally, Mr. Counts testified that after the separation, United of Ohio and United of Indiana will continue to have the technical and managerial capabilities to provide quality service and that the transaction will promote the public convenience and result in the provision of adequate service for a reasonable rate, rental, toll or charge. Mr. Counts also testified that, other than the change in the company name and logo which will be introduced on or near the effective date of the separation, the separation will be transparent to and ultimately

beneficial to the local customers of United of Ohio. Finally, Mr. Counts explained that existing United of Ohio local customers who today receive long distance service from Sprint Communications Company L.P. will, following the separation, be transferred to the recently certificated company Sprint Long Distance, Inc.<sup>2</sup> (Counts Direct at 1-6).

In support of the statement that there will be no negative impact of the transaction on customers, Mr. Counts testified that, on the day after the separation, United of Ohio and United of Indiana will offer the full range of products and services that were offered by these companies the day before the separation, at the same prices and subject to the same rules, regulations and applicable tariffs (*Id.* at 7). Additionally, any future end user rate changes will continue to be subject to the same Commission rules, regulations and applicable tariffs as today. Likewise, existing wholesale services, rates, terms and conditions will be unchanged as a result of this transaction and there will be no impact on the terms of any interconnection agreements (*Id.* at 7-8). Regarding the technical and managerial capabilities of United of Ohio following the separation, Mr. Counts testified that all equipment, buildings, systems, software licenses and other assets owned by United of Ohio will remain assets of United of Ohio. There will be no transfers or assignments of assets owned by United of Ohio as a result of this separation (*Id.* at 9). As for assets owned by other Sprint entities that currently serve the needs of multiple Sprint operations, those shared assets are being systematically reviewed to determine the predominant use of the shared asset. For any shared assets that will remain with Sprint, the LTD Holding Company or its subsidiary will decide whether to purchase or lease similar assets or contract for comparable services from a third party to best meet the company's future needs. In the interim, however, a Transitions Services Agreement between Sprint and LTD Holding Company will provide access to needed assets for up to one year to ensure the continuity of services as the separation is completed (*Id.* at 9-10).

B. Dr. John W. Mayo

The second witness to submit sworn testimony on behalf of the Joint Applicants was Dr. John Mayo. Dr. Mayo is a Professor of Economics, Business and Public Policy at Georgetown University in the McDonough School of Business. Dr. Mayo provided background information concerning economic and historical perspectives concerning industrial structure and industrial change as to why firms are constantly reorganizing themselves in order to perform more efficiently and in order to create value for shareholders (Mayo Direct at 3-6). Thereafter, Dr. Mayo discussed specific considerations associated with the proposed separation (*Id.* at 8-11). In his concluding remarks, Dr. Mayo testified that, in his opinion, the proposed separation represents a normal manifestation of the desire by corporate management to seek to reorganize the company in an efficient and

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<sup>2</sup> Sprint Long Distance, Inc. was certificated in Case No. 05-1018-TP-ACE and holds Certificate of Public Convenience and Necessity No. 90-6335.

strategically focused manner. Therefore, Dr. Mayo was quite comfortable recommending approval of the separation as proposed (*Id.* at 12).

C. Mark A. Gast

The next witness offering sworn testimony in this matter was Mark A. Gast, Director-Regulatory Analysis and Reporting for Sprint Nextel Corporation. Mr. Gast testified to the "strong financial capabilities" possessed by the United Companies and by LTD Holding Company following the transfer of control (Gast Direct at 2). Further, Mr. Gast opined that the involved companies would be fiscally unaffected by the change in their parent company and, in his view, would continue to possess the financial capability to invest in their networks and employees and to generate a sufficient level of cash to pay expenses and a dividend to their shareholders (*Id.*).

To support his positions, Mr. Gast testified that, upon separation, LTD Holding Company will be the largest independent local telephone company operating in the United States with 2004 annual revenues exceeding \$6 billion. This level of revenue places LTD Holding Company at approximately 335 on the Fortune 500 list and will qualify the company to be traded on the New York Stock Exchange (*Id.* at 7). Next, the witness presented the 2004 financial condition of LTD Holding Company as if the separation had occurred on or before January 1, 2004.<sup>3</sup> Mr. Gast then described three very important adjustments that LTD Holding Company will implement upon separation that will enhance the financial condition of the holding company and, in turn, benefit the local operations of the United Companies (*Id.*).

The first adjustment is an adjustment to the capital structure. Specifically, upon separation LTD Holding Company will issue unsecured debt to lenders and retire certain long-term intercompany debt held by shareholders. Because lenders require a lower rate of return than shareholders and due to certain tax benefits associated with debt capital as opposed to equity capital held by shareholders, the result will reflect an overall net increase in cash available to LTD Holding Company after the separation (*Id.* at 11-13). The second adjustment reflects a change in the company's dividend obligation to shareholders resulting, in part, from the previous adjustment. This significant reduction in the dividend obligation to shareholders contributes to the increase in cash flow which can then be used for debt reduction or strategic investment (*Id.*). The third adjustment reflects the positive financial impact of offering long distance services during 2004 if LTD Holding Company had operated at that time under the commercial agreements that it will enter with Sprint Communications Company L.P. as a result of this separation. This adjustment reflects actual in-territory residential and business customers served by Sprint L.P. during 2004 adjusted for the terms of the new commercial agreements. According to the witness, this

<sup>3</sup> The witness explained that financial information from 2004 was used in order to obtain a clear picture of the separation's financial impact on a full year's worth of operations (*Id.* at 9).



adjustment reflects the substantial financial contribution of net income from long distance products which will contribute to the overall financial health and viability of LTD Holding Company upon separation (*Id.* at 15-17).

Lastly, Mr. Gast testified to the financial impacts of the shared assets discussed in Mr. Counts' testimony. Mr. Gast recounted that for those shared assets identified as being required for future use by LTD Holding Company, the assets will be titled and moved to the balance sheet of LTD Holding Company at separation and recorded on the balance sheet at net book value (*Id.* at 21). For those shared assets identified as being used by both LTD Holding Company and Sprint Nextel at separation, an objective decision-making formula is being applied to the shared asset to determine where it will reside at separation. The objective decision-making criteria include the primary use of the asset, the level of revenue generation from the asset, the physical location and maintenance of the asset, expected asset migration and the like (*Id.*). For those assets used by LTD Holding Company or its subsidiaries but remaining with Sprint Nextel at separation, the LTD Holding Company, and its subsidiaries, will purchase use of the asset through a Transition Service Agreement. The transitional services subject to this agreement will be priced at cost (*Id.* at 22). Mr. Gast testified that, in his view, the financial impact of using shared assets on his analysis of the LTD Holding Company will not generate substantial change in the financial picture described heretofore because, today, the operating costs of these shared assets are allocated from the Sprint United Management Corporation to the individual local telephone companies each month. Thus, the existing expense and cash impacts are already reflected in financial data and no adjustment is therefore necessary (*Id.* at 23).

D. Kevin P. Collins

The last witness offering sworn testimony in support of the joint application was Kevin P. Collins. Mr. Collins is a managing director at Houlihan, Lokey, Howard & Zukin Financial Advisors, Inc. (Houlihan Lokey). Houlihan Lokey is an international investment bank which provides a wide range of services, including mergers and acquisitions, financing, financial opinions and advisory services and financial restructuring. Houlihan Lokey was hired by Sprint Nextel to evaluate certain aspects of the separation of the incumbent local wireline operations from the parent company. In particular, Houlihan Lokey performed an independent valuation of LTD Holding Company and analyzed certain financial information regarding the capitalization of LTD Holding Company subsequent to the separation and its impact on the ability of the company to pay its debts as those debts become due (Collins Direct at 1-2).

Mr. Collins testified that in evaluating whether a company has adequate capital, one must examine both the value of a company's assets relative to its liabilities and its projected cash flows relative to its operating requirements. (*Id.* at 4). The witness testified

that Houlihan Lokey utilized three approaches commonly used by investors and analysts in valuing LTD Holding Company. The first approach is the market multiple approach with derives valuation multiples from a group of comparable publicly traded companies. The second approach, the comparable transaction approach, derives valuation multiples from precedent transactions within the industry. The final approach uses the discounted case flow method to calculate the net present value of all future expected case flows utilizing the financial projections prepared by management of the company (*Id.* at 6-7). Based on these three approaches, the witness testified that the estimated fair market value of the assets exceeds the pro forma debt and, thus, LTD Holding Company should be able to pay its debts while continuing to generate sufficient cash to reinvest in the business at a level indicated by the company necessary to maintain the current level of service and pay dividends in accordance with the planned dividend policy commensurate with industry peers (*Id.* at 8).

Next, Mr. Collins testified that, following the separation, the anticipated level of debt of LTD Holding Company will be within the levels that can be observed for similar industry participants (*Id.* at 9). Mr. Collins also opined that the anticipated capital structure will not limit LTD Holding Company's ability to reinvest in its business nor will the anticipated capital structure inhibit the company from having numerous financing alternatives for accessing capital in the future (*Id.* at 11-12). In conclusion, Mr. Collins testified that Houlihan Lokey's evaluation reveals that LTD Holding Company passes the three tests relating to adequate capital and that neither the level of debt nor the anticipated dividend policy should limit the company's ability to reinvest in its network at the levels required to maintain it current or an improved level of quality of service (*Id.* at 13).

#### INTERVENTION AND OBJECTIONS:

##### A. Motions to intervene

As discussed above, OCC and CWA filed motions to intervene in this matter on August 31 and September 22, 2005, respectively. OCC claims a right to intervene in this matter insofar as the interests of residential customers may be adversely affected by this case. Further, OCC claims that its interest lie in protecting residential customers from adverse impacts from the spin-off and also in ensuring that residential customer benefit from the spin-off. OCC claims that this proceeding is unique insofar as it represents a spin-off of the local telephone operations of a major incumbent local exchange carrier from a holding company rather than the acquisition of an Ohio carrier by another carrier.

In their memorandum contra OCC's motion to intervene, the Joint Applicants submit that the mere change in the identity of the holding company that will own the stock of the United Companies will not impact whatsoever any Ohio residential consumers. Therefore, OCC cannot and does not meet the legal standard for intervention.

Moreover, to the extent OCC equates promoting the public convenience with benefiting residential customers, Joint Applicants submit that OCC has misapprehended what the law requires. Nevertheless, pointing to the joint application and the accompanying testimony, the Joint Applicants claim that residential consumers will benefit in several ways.

CWA claims a real and substantial interest in this proceeding not represented by existing parties as the labor organization representing nearly 400 employees of the United Companies in Ohio. The application and testimony are deficient, in CWA's view, because sufficient information is not provided as to how Sprint Nextel and LTD Holding Company will divide pension assets, life insurance assets, and retiree health fund assets among other items. Additionally, CWA claims that the application and testimony does not adequately address quality of service and, should problems be revealed, a concrete, verifiable plan to improve upon that service.

In response to the CWA motion to intervene, the Joint Applicants submit that the CWA does not meet the legal standards for intervention because this change in ownership will not adversely affect any CWA members. Joint Applicants continue that the rights of CWA members are governed by the collective bargaining agreements that exist between CWA and the United Companies. Those contracts will remain in full force and effect after the proposed separation takes place. Notably, Joint Applicants aver, the CWA fails to refer to any portion of the applicable collective bargaining agreements that would justify any input from CWA with respect to the issues CWA mentions, e.g., financial structure, quality of service, pensions, life insurance, and retiree health fund assets. Finally, the Joint Applicants assert that the issue of service quality does not create any substantial interest on the part of the CWA because the proposed transaction will not change, in any way, the service quality standards that the regulated entities must meet. Nevertheless, if, and when, any problems arise with respect to service quality, the Joint Applicants observe that the Commission is fully capable of addressing them at that point.

Upon consideration, the Commission finds that cause to grant intervention under Section 4903.221, Revised Code, has not been shown. Further, given the nature of this case and the authority under which the Commission reviews such applications, we find that a hearing is not necessary for the Commission to fully consider the comments and arguments presented in this matter as discussed more fully below. Intervention is, therefore, denied.

#### B. Motion for hearing

In support of their motion for a hearing, OCC and CWA point out that the Commission held extensive hearings before deciding both the SBC/Ameritech and Bell

Atlantic/GTE merger proceedings.<sup>4</sup> OCC and CWA note that this spin-off involving the local operations of one of the largest incumbent local exchange carriers in Ohio deserves more, not less scrutiny than those earlier merger proceedings. Public hearings, including local public hearings in United of Ohio's territory, are necessary to explore the alleged benefits of this merger and to determine the benefits and protections needed to ensure this merger meets the standards of Section 4905.402, Revised Code.

Joint Applicants submit that the merger precedent OCC and CWA cite is readily distinguishable from the instant matter. Moreover, Joint Applicants aver, a hearing is clearly optional and at the discretion of the Commission under Section 4905.402, Revised Code. Finally, Joint Applicants posit that the joint application and the testimony accompanying the joint application undeniably demonstrate that the corporate separation satisfies the requirements of Section 4905.402, Revised Code.

The OCC and CWA motions for hearing in this matter are denied. The applicable provision leaves the discretion as to whether to hold a hearing on an application filed under Section 4905.402, Revised Code, to the Commission. Moreover, the past precedent cited by OCC and CWA is clearly not applicable in this instance because, as OCC and CWA acknowledge, this corporate spin-off or separation is not analogous to the acquisition of a large Ohio ILEC by an even larger ILEC with operations in many states. Nor is this a merger as OCC keeps referencing in its pleadings. In fact, as recognized by OCC, this is a case of first impression. On balance, we believe that the involved spin-off can be adequately evaluated by reviewing the joint application, supporting testimony and objections raised by OCC and CWA without scheduling this matter for public hearings.

C. Motions for suspension and to establish procedures

1. Joint OCC and CWA issues

Included with the motions to intervene, OCC and CWA (movants) filed motions urging the Commission to suspend this proceeding from the 30-day process outlined in Section 4905.402, Revised Code, and to identify issues, allow discovery and allow responses to the joint application and testimony to be filed with the Commission by interested persons (OCC motion to suspend at 6-7; CWA motion to suspend at 9-10). Movants noted that a similar process was followed in the SBC/AT&T and Verizon/MCI mergers. Specifically, OCC submits that the joint application and testimony do not support how the spin-off will promote the public convenience, as required by Section

<sup>4</sup> In the Matter of the Joint Application of SBC Communications Inc. SBC Delaware Inc., Ameritech Corporation, and Ameritech Ohio for Consent and Approval of a Change in Control, Case No. 98-1082-TP-AMT, Opinion and Order (April 9, 1999); In the Matter of the Joint Application of Bell Atlantic Corporation and GTE Corporation for Consent and Approval of a Change in Control, Case No. 98-1398-TP-AMT, Opinion and Order (February 10, 2000).

4905.402, Revised Code, other than in nebulous terms (OCC motion to suspend at 4). CWA argues that the joint application and testimony does not evidence any specific, verifiable benefits to consumers from the proposed transaction (CWA motion to suspend at 5-6). Movants opine that the application and testimony do not provide sufficient information to evaluate whether the local spin-off will result in an equitable allocation of assets and debt to ensure a viable entity remains after the spin-off. OCC states that the testimonies of witnesses Collins and Gast contain information relevant to the allocation issue but that such information is found in the redacted versions of the testimony (OCC motion to suspend at 4). CWA believes that the debt level allocated to LTD Holding Company at the separation raises serious and troubling questions concerning the prospective health of the local operating entities which bear further examination by the Commission (CWA motion to suspend at 6-7).

The Joint Applicants maintain that because the SBC/AT&T and Verizon/MCI mergers differ fundamentally from the proposed separation, they provide no basis for requiring discovery. OCC attempts to support its request for discovery, the Joint Applicants observe, by noting that the proposed protective order that the Joint Applicants filed mentions discovery and the possibility of additional testimony. The Joint Applicants submit that it is more efficient to have a protective order adopted that includes potential occurrences such as discovery and additional testimony so there is no need to revisit the terms of the protective order if the eventualities come to pass (Joint Applicants' memorandum contra OCC motion to suspend at 9; Joint Applicants' memorandum contra CWA motion to suspend at 16). The Joint Applicants believe that they have demonstrated public convenience. They aver that because Sprint ILEC operations will become a stand-alone corporation, local exchange customers will benefit from the new company's single-minded focus on the local market. Additionally, the Joint Applicants claim that the separation will eliminate the tension between Sprint Nextel's national wireless strategy and LTD Holding Company's local wireline strategy. Further, the transaction will increase the speed of decision making and allow LTD Holding Company to focus on the development of new products targeted to customers in its local serving area (Joint Applicants memorandum contra OCC motion to suspend at 4-5). The Joint Applicants also believe that the public interest will be promoted because Sprint Nextel will be able to pursue bundling and partnership opportunities that utilize its wireless and nationwide fiber optic and global IP networks. As a result, all customers will benefit from increased facilities-based and inter-modal competition (Joint Applicants memorandum contra CWA motion to suspend at 5).

Regarding the allocation issue, the Joint Applicants aver that there is nothing in the FCC's order approving the Sprint/Nextel merger that conditions approval on any particular capital structure for the ILEC companies that are to be separated from Sprint Nextel. Therefore, OCC's concerns on this issue are misplaced (Joint Applicants memorandum contra OCC motion to suspend at 6). Addressing the CWA's concerns, the

Joint Applicants assert that the regulated entities that provide telecommunication services to the public and that employ CWA members "will be fiscally unaffected by the change in their parent company." The regulated entities will, the Joint Applicants posit, continue to invest in their networks and their employees and, as a result, continue to generate a sufficient level of cash to pay expenses as well as dividend payments. Citing testimony from Mr. Collins, the Joint Applicants maintain that the debt level for LTD Holding Company is commercially reasonable. Nevertheless, the Joint Applicants submit, under alternative regulation the Commission does not examine the capital structure of regulated telecommunications providers. Capital structure would only be relevant in the context of a traditional rate case Joint Applicants observe (Joint Applicants memorandum contra CWA motion to suspend at 6-8).

The Commission finds that the Joint Applicants have adequately addressed the various concerns raised by the movants, and that the submission of additional responses to the joint application and testimony filed in this matter is not necessary. For instance, Joint Applicants have adequately demonstrated how the pending transaction, involving the spin-off a holding company in effect creating two corporate entities out of one, is different than both the SBC/AT&T and Verizon/MCI ownership transfers the Commission approved earlier this year whereby one corporation is purchasing another corporation. Regarding consumer benefits, the Commission is satisfied with the Joint Applicants' explanation that consumers will benefit from the new company's single-minded focus on the local exchange market and the elimination of the tension between the new focus and Sprint Nextel's stated national wireless strategy. As such, we find that the public convenience will be advanced by approval of the corporate spin-off. Regarding the movants' arguments concerning capital structure and allocation, we note that, although not unimportant, such issues are more relevant to corporate reorganizations when a traditionally regulated local exchange carrier is involved than in the case, such as this, where the ILEC is operating pursuant to alternative regulation where rates are not established based on corporate expenses and where an identified return on equity is not targeted. In making this determination we note that nothing in today's decision would inhibit the Commission or the OCC from investigating and disputing any operating expenses deemed improper for the purpose of setting cost-based rates should United of Ohio seek to revert to rate-of-return regulation in the future.

## 2. OCC issues

OCC next urges the Commission to investigate the costs that may result from the elimination of certain scale and scope economies insofar as certain operations, once lodged at Sprint, will have to be replicated by LTD Holding Company. At the very least, OCC says, consumers should be insulated from impacts of such costs (OCC motion to suspend at 4-5). OCC next challenges the Joint Applicants underlying theme that in order to compete in the current environment, the Joint Applicants need to separate and become

smaller. This contradiction with the SBC/AT&T and Verizon/MCI mergers deserves a full review OCC claims (*Id.*). Further, OCC avers, the Commission should, at a minimum, consider investigating the same five issues in this proceeding as the Commission investigated in the SBC/AT&T and Verizon/MCI merger proceedings (*Id.*). OCC next questions the Joint Applicants' assertion that this spin-off is necessitated by the rapidly evolving telecommunications environment since the United Companies currently operate under a rate structure that includes, among other things, rate bands and zone rates that were adopted in 1982 (*Id.* at 6).

OCC fails to acknowledge, according to the Joint Applicants, that residential consumers are insulated from the impact of any costs associated with the elimination of certain scale and scope economies. The Joint Applicants believe that for OCC's concerns to have any merit, there would need to be a showing that residential consumers are entitled to be served by a local exchange company that is integrated with a wireless provider and a long distance company. However, the Commission has never required such integration in order to minimize costs through scale and scope economies. The Joint Applicants maintain that dozens of ILECs are operating on a stand-alone basis today, thus, the Commission should disregard OCC's concerns on this issue (Joint Applicants' memorandum contra OCC motion to suspend at 7). The Joint Applicants next assert that OCC has not and cannot support its assumption that there is a "seeming contradiction" between, on one hand, the SBC/AT&T and Verizon/MCI mergers and, on the other hand, this proposed transaction. The Joint Applicants submit that the SBC and Verizon merger cases are wholly inapposite because they involved mergers of competitors and not the separation of local exchange companies from their existing parent. As a result, the Joint Applicants state that most of the issues that the Commission examined in those cases are not relevant to this current proceeding (*Id.*). Turning to OCC's rate structure concerns, the Joint Applicants aver that OCC fails to appreciate the fact that the proposed transaction will have no impact whatsoever on Sprint's rate structure. OCC has had the opportunity for over twenty years to contest this rate structure, Joint Applicants aver, if OCC believed that the rate structure somehow constituted inadequate service under any law or regulation. However, Joint Applicants point out, OCC has not done so (*Id.* at 8). The Joint Applicants assert that OCC's comment is irrelevant because neither United of Ohio nor United of Indiana is a rate-base, rate-of-return regulated entity. Thus, it is irrelevant, the Joint Applicants believe, how much those entities pay Sprint Nextel for the services purchased from Sprint Nextel (*Id.*).

After a thorough review of the arguments raised by OCC, we find nothing in those arguments that compels us to further investigate OCC's issues. Regarding the duplication of operations and the loss of certain economies of scale and scope, we find that the Joint Applicants have satisfied us that although there may be a slight increase in operating expenses due to the duplication of shared assets immediately following the spin-off, such increase is so minimal that we expect no impact on the financial well-being of the spun-off

entities. Moreover, as discussed above concerning changes in the dividend policy, the increased expense associated with duplication of shared assets will more than be made up by the increase in cash flow attributed to the dividend policy changes. Similarly, OCC's arguments concerning the contradiction between this proceeding and the SBC/AT&T and Verizon/MCI transfers of ownership do not warrant further investigation. The pending spin-off of the Sprint wireline operations is wholly inapposite to the combinations involved in the SBC/AT&T and Verizon/MCI cases. Thus, there is no reason to investigate further this matter. Lastly, regarding the rate structure and the cost of purchasing wireless and video services, the Commission determines that there is no need to further examine these issues. The Joint Applicants are proposing no changes to the rate structure of any Ohio-regulated public utility. Regardless, the Commission has the authority to examine such issues notwithstanding the current application. As for video and wireless services purchased from Sprint Nextel after the spin-off, the Joint Applicants have asserted that no video services are purchased today and none are planned to be purchased in the future. As for wireless service, the Joint Applicants have explained that the separation agreement includes a clause affording LTD Holding Company to continually receive the best price for wireless service offered by Sprint Nextel. Nonetheless, nothing in the agreement precludes LTD Holding Company from negotiating with another wireless carrier a better deal. Finally, we note the price these entities pay Sprint Nextel for wireless service is less of a concern since United of Ohio and United of Indiana are not rate-base, rate-of-return carriers.

### 3. CWA issues

CWA maintains that the joint application and the testimony do not provide any information regarding how the Joint Applicants plan to divide Sprint's pension assets, life insurance assets and retiree health fund assets, among other items. CWA encourages the Commission to investigate these issues to ensure that the United Companies, after the separation, are able to meet these continuing obligations (CWA motion to suspend at 7). Regarding shared assets, CWA claims that the Commission must investigate and resolve outstanding questions regarding shared assets before considering approval of this spin-off (*Id.*). Next, CWA submits that the Joint Applicants only provided abbreviated financial information for year 2004 and that information and accompanying testimony is insufficient to evaluate the transaction. Moreover, CWA urges the Commission to investigate whether the local operating companies are being used as a cash cow to support Sprint's investments in wireless, internet and other non-local operations (*Id.* at 7-8). CWA also encourages the Commission to investigate the service quality offered by the United Companies in recent years and, should problems be identified, a plan should be put in place to rectify the service quality concerns (*Id.* at 8). As a final matter, the CWA recommends that the Commission investigate the impact of the spin-off on employment levels, network investments related to accelerated deployment of advanced services, and



whether the transfer of customers from Sprint Communications Company L.P. to Sprint Long Distance would be a violation of equal access requirements (*Id.* at 8-9).

The Joint Applicants respond that the pension assets are in a trust with assets held specifically for pension benefits. The Joint Applicants maintain that they will adhere to the requirements of The Employee Retirement Income Security Act of 1974. Moreover, according to the Joint Applicants, there will be no change in the benefits offered to LTD Holding Company employees because of the separation. Pension, life insurance and retiree health fund assets and plan liabilities will be apportioned between Sprint Nextel and LTD Holding Company using an actuarial study that will be prepared once it is known which employees will be employed by the respective companies (Joint Applicants' memorandum contra CWA motion to suspend at 8). On the issue of shared assets, the CWA fails to acknowledge, according to the Joint Applicants, that the shared assets that will be affected by the proposed transaction are not owned by the regulated entities. These assets are owned by an affiliate corporation which is unregulated (Sprint United Management Corporation) and will be owned by either LTD Holding Company or Sprint Nextel after the proposed transaction. The Joint Applicants state that for those assets that LTD Holding Company will require for future operations, but which will remain with Sprint after the separation, LTD Holding Company will purchase the necessary capabilities from Sprint. The Joint Applicants claim there will be no adjustment necessary to the balance sheet of LTD Holding Company because the financial impacts of the regulated entities' use of shared assets are already reflected in the 2004 Historical LTD Holding Company starting point. Therefore, the Joint Applicants view the issue of shared assets as a non-issue (*Id.* at 9-10).

Regarding the financial information submitted with the application and Sprint Nextel's dividend policy, the Joint Applicants assert that because United of Ohio and United of Indiana were wholly owned subsidiaries of Sprint Corporation, Sprint Corporation, as the owner, was entitled to the payment of whatever dividends United of Ohio and United of Indiana deemed appropriate. The Joint Applicants believe it is irrelevant whether the dividends paid are greater than profits. The Joint Applicants state that what is relevant is the relationship of dividends to cash flow (*Id.* at 10). The Joint Applicants observe that dividends paid in excess of one year's earnings are an anomaly, a short-term phenomenon, and not a recurring event. The Joint Applicants maintain that they have positive accumulated earnings which reflect that the United Companies have not paid out dividends in excess of their accumulated earnings over their entire corporate life (*Id.* at 11). Next, the Joint Applicants dispute that the spin-off will have any negative impact on the quality of service. They believe it is premature to discuss plans aimed at correcting problems before any service quality problems arise. Further, the Joint Applicants maintain that the CWA has used misleading citations from the FCC ARMIS data by comparing 1997 to 2004. The Joint Applicants submit that CWA ignores the fact that there are a variety of factors that influence service levels from year-to-year, not the

least of which is weather. The Joint Applicants note that they have consistently remained within ranges deemed acceptable by the Commission's minimum telephone service standards (MTSS) (*Id.* at 11-12). Nor do the Joint Applicants believe that there is any justification for the Commission to attempt to manage employment levels or network investments for United of Ohio or United of Indiana through this proceeding (*Id.* at 14). Regarding transfer of customers, the Joint Applicants acknowledge that Sprint Communications Company L.P. is obligated to comply with all applicable laws and regulations regarding any transfer of customers. This obligation is independent of the separation and Sprint Communications Company L.P. will so comply with the Joint Applicants' pledge (*Id.* at 14-15).

After reviewing the various pleadings filed by CWA and by the Joint Applicants in this matter, we determine that nothing raised by CWA warrants further investigation in this proceeding involving the spin-off of wireline entities of Sprint Nextel to LTD Holding Company. Regarding certain employee assets and benefits, the rights of CWA members are governed by collective bargaining agreements. Those contracts will remain in full force and effect following the separation. Further, the Joint Applicants explained that pension assets were governed by federal law. We find the Joint Applicants' explanations to be satisfactory. Regarding shared assets, we find that the Joint Applicants have adequately explained the process whereby shared assets are being allocated among Sprint Nextel and LTD Holding Company. Moreover, we note that Joint Applicants have a plan in place to purchase the use of shared assets for up to one year following the separation. This procedure should allow the Joint Applicants adequate time to make alternative arrangements should the functionality of a shared asset still be needed after the separation in order to serve Ohio consumers.

Likewise, Joint Applicants have sufficiently explained its dividend policy so as to satisfy us that there is no reason to further investigate the payment of dividends by United of Ohio and United of Indiana to the parent company Sprint Nextel. Notwithstanding the determination on dividend policy herein, the Commission retains all statutory authority over Ohio-regulated utilities outlined in Title 49 of the Ohio Revised Code. Similarly, regarding service quality, nothing in this order diminishes the Commission's authority under the Ohio Revised Code or the Ohio Administrative Code should problems develop concerning the service quality offered by the United Companies. Likewise, we see no reason to engage in investigating staffing levels or network investment based merely upon conjecture and speculation about what might transpire. As with other matters identified above, we have the necessary tools at our disposal to investigate and rectify proven instances of diminution in service quality should that occur. Lastly, we note the Joint Applicants' acknowledgement regarding the need to comply with certain regulations at the time long distance customers are transferred from Sprint Communications Company L.P. to Sprint Long Distance. We direct the parties to comply with those regulations and make the necessary filings at the appropriate time.

D. Joint motion for a protective order

Concurrent with the filing of the joint application, the Joint Applicants filed a motion for the issuance of a protective order keeping confidential the designated confidential and/or proprietary and highly confidential information included in the testimony of Mark A. Gast and Kevin P. Collins. Additionally, the Joint Applicants requested that the Commission adopt the protective order in the form accompanying the motion in order to facilitate the disclosure of documents and information that may be required during the course of any discovery in this proceeding. The Joint Applicants submit that the Collins testimony contains detailed financial projections, including revenues by product segment and costs, for LTD Holding Company through 2007. These projections were utilized by Houlihan Lokey to determine a projected valuation of LTD Holding Company. The Gast testimony details specific company information for the United Companies on a historic and pro forma basis. The information includes specific details on asset book value, net income, projected capital expenditures, anticipated interest charges and cash generation from operating activities. In addition, the Gast testimony also provides projections for investments in the network and dividends to be paid to shareholders. The Joint Applicants submit that the foregoing information is very sensitive detailed information regarding the operations of United of Ohio, United of Indiana and LTD Holding Company that demonstrates the profitability characteristics of the services offered.

OCC filed a memorandum contra the Joint Applicants' motion for the issuance of a protective order. OCC does not oppose the concept of the Joint Applicants' request for an order to protect designated confidential and/or proprietary and highly confidential information included in testimony filed in this matter. Rather, OCC objects to the terms of the protective order that Joint Applicants propose governing discovery in this proceeding. OCC offers instead its own protective order to govern discovery undertaken by OCC that recognizes OCC's status as an agency of the State of Ohio and that does not contain the onerous provisions included in the Joint Applicants' proposed protective order.

We find that the Joint Applicants have reasonably justified the request for protective treatment to afford protective status to the designated portions of the testimonies of witnesses Gast and Collins. Therefore, the docketing division is instructed to maintain such designated information under seal for 18 months from the date of this order. As to OCC's objections to the form of the protective order proposed by the Joint Applicants, the Commission finds that such objections are moot in light of our ruling on the joint application as discussed in more detail below.

CONCLUSION:

Upon reviewing the joint application, the testimony submitted in support of the joint application and the arguments raised by OCC and CWA, the Commission concludes that the proposed transaction as a whole will promote the public convenience and result in the provision of adequate service at reasonable rates, rentals, tolls or charges as defined in Section 4905.402, Revised Code. Further, we believe that the transaction will promote the state's telecommunications policy of competition, diversity and customer choice. In reaching this decision, the Commission thoroughly considered all of the issues identified by OCC and CWA and, nevertheless, we find that this transaction should be approved at this time without further proceedings.

One of the identified benefits of this spin-off is the single-minded focus and dedication that LTD Holding Company and its subsidiaries will bring to local wireline customers now that the local operations no longer must compete internally with the wireless operations of Sprint Nextel for monies to enhance infrastructure investment. The Commission also concludes that the proposed transaction will result in the addition of a new competitor in the Ohio telecommunications market due to the separation of the wireline and wireless subsidiaries formally owned exclusively by Sprint Nextel.

Based on our review, the Commission has determined that the proposed transaction should result in customer service and service quality that meets current service standards. To this end, the Commission will continue to monitor Joint Applicants' future investments and improvements in those areas related to service quality. Nothing in our approval of this spin-off obviates the MTSS or our authority to enforce those standards. In fact, as part of our approval of this transaction, the Commission intends to exercise increased vigilance in those areas regarding Joint Applicants' service quality, including future network investments and improvements. To further assure the ability of the Commission's Staff to monitor the companies' service quality, customer service performance, and the resolution of customer complaints, the Commission directs the Joint Applicants to maintain, in Ohio, customer service regulatory contacts with complaint resolution authority. The Commission also orders the Joint Applicants to ensure the ability of staff to monitor remotely all Ohio specific customer service calls in the most efficient manner, either at a location in Ohio or in a manner agreed to by staff.

Regarding the financial aspects of this spin-off, the Joint Applicants have demonstrated that the regulated entities in Ohio will be financially viable to continue to make infrastructure and employee investments in order to generate a sufficient level of cash to pay expenses and dividend payments. Additionally, we note that the Ohio-regulated utilities are operating under alternative regulation where prices are not directly linked to the capital structure, revenues or expenses of the regulated entity. Nevertheless, we will continue, as we do with all Ohio-regulated public utilities, to monitor the financial

well-being of the Ohio-regulated entities as a result of this spin-off to ensure that service does not decline as a result of this separation.

To the extent that OCC and CWA have argued that the Commission has required more extensive conditions in past transactions involving changes of ownership pursuant to Section 4905.402, Revised Code, the Commission notes that our decision in this case is based on the current state of the telecommunications market and the record before us in this case. Moreover, as argued by the Joint Applicants, we view the involved transaction as distinguishable from those other transactions.

As a result of our decision today, the Commission shall continue to closely scrutinize Joint Applicants' activities and will maintain full regulatory oversight regarding the terms and conditions of this opinion and order. The Commission shall continue to review Joint Applicants' progress in implementing the spin-off of the wireline entities from Sprint Nextel to LTD Holding Company. Our approval of the joint application is expressly contingent upon the terms of this opinion and order. If the opinion and order is overturned and the change in ownership is not closed, the Commission's approval will be deemed withdrawn. If any term contained in this opinion and order is declared null and void and the transaction has already closed, we reserve the ability to obtain the value of the condition in some other manner.

Further, we note that, to the extent there are transactions resulting from this separation for which the Ohio-regulated utilities need to obtain Commission approval, e.g., corporate name changes and transfer of the long distance customer base, our approval of the spin-off is specifically conditioned on the Joint Applicants filing for Commission approval of those transactions.

As a final matter, if there are any arguments raised by OCC and CWA not specifically addressed herein, those arguments are rejected. Additionally, all pending motions for protective treatment, as discussed above, are found to be reasonable and should be granted. The docketing division should maintain under seal for 18 months from the date of this opinion and order all documents that are currently under seal in this proceeding.

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

- (1) On August 23, 2005, as supplemented on September 16, 2005, Joint Applicants filed an application seeking approval of a corporate spin-off whereby Sprint Nextel will spin-off its wireline entities to LTD Holding Company.

- (2) The Commission engaged in its review of the joint application pursuant to Section 4905.402, Revised Code, based on the finding that the application pertains to the change of control of a domestic telephone company or a holding company controlling a domestic telephone company.
- (3) Pursuant to Section 4905.402, Revised Code, the Commission determined that no hearing is necessary in this proceeding.
- (4) The joint application should be approved subject to the terms discussed in this opinion and order. The joint application, in conjunction with the terms of this opinion and order, will promote the public convenience and result in the provision of adequate service at reasonable rates, rentals, tolls or charges as set forth in Section 4905.402, Revised Code.
- (5) The Commission retains continued oversight authority over this transaction and the ongoing implementation in accordance with this opinion and order.

It is, therefore,

ORDERED, That the proposed transfer of ownership is approved as described in this opinion and order. It is, further,

ORDERED, That the docketing division should maintain under seal for 18 months from the date of this opinion and order, all documents which are currently under seal in this proceeding. It is, further,

ORDERED, That Joint Applicants comply with the terms and directives of this opinion and order. It is, further,

ORDERED, That Joint Applicants formally notify the Commission, within three days of its closure, when the proposed transfer of ownership has occurred. It is, further,


ORDERED, That any asset transfer, name change of an Ohio public utility or the cancellation/reissuance of certificates resulting from this transaction must be formally approved by the Commission prior to its implementation. It is, further,

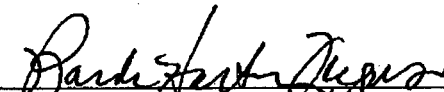
ORDERED, That our approval of the joint application, to the extent set forth in this opinion and order, does not constitute state action for the purposes of antitrust laws. It is not our intent to insulate the companies from the provisions of any state or federal laws that prohibit the restraint of trade. It is, further,

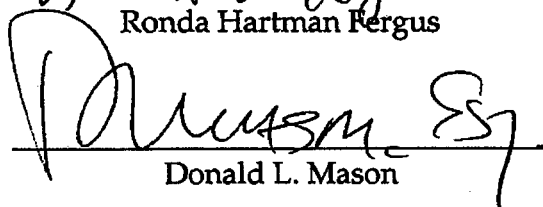
ORDERED, That, except as specifically provided for or clarified in this opinion and order, nothing shall be binding upon the Commission in any subsequent investigation or proceeding involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this opinion and order be served upon all parties and interested persons of record.

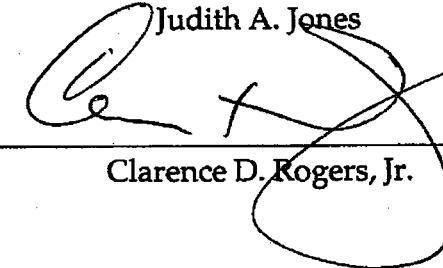
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Alan R. Schriber, Chairman

  
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Ronda Hartman Fergus

  
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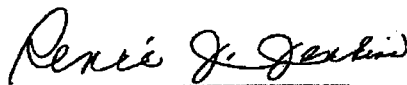
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Judith A. Jones

  
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Clarence D. Rogers, Jr.

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Entered in the Journal

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Renee J. Jenkins

Renee J. Jenkins  
Secretary

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-246-C - ORDER NO. 2005-690  
DECEMBER 8, 2005

IN RE:	Application of Sprint Nextel Corporation for	)	ORDER APPROVING
	Approval of the Transfer of Control of United	)	TRANSFER OF
	Telephone Company of the Carolinas, Sprint	)	CONTROL
	Long Distance, Inc. and Sprint Payphone	)	
	Services, Inc. from Sprint Nextel Corporation	)	
	to LTD Holding Company.	)	

**I. INTRODUCTION**

In the above-referenced matter, we consider Sprint Nextel Corporation's ("Sprint" or "Sprint Nextel") Application for approval for a transfer of control of Sprint's incumbent local exchange carrier ("ILEC") affiliate in South Carolina, United Telephone Company of the Carolinas ("United"), the newly created interexchange reseller Sprint Long Distance, Inc. ("Sprint LD"), and United's payphone affiliate, Sprint Payphone Services, Inc. ("SPSI") from Sprint Nextel Corporation to a new stand-alone holding company, named generically for the time being as "LTD Holding Company". This Application is one of the necessary regulatory steps in order to implement Sprint Nextel's announced plans to "spin off" its ILEC affiliates and associated companies into a stand-alone local company. Because we find that Sprint's Application is in the public interest, we grant the relief requested and approve it.



## **II. PROCEDURAL BACKGROUND**

On August 17, 2005, Sprint Nextel filed its “Application for Approval of the Transfer of Control of United Telephone Company of the Carolinas, Sprint Long Distance, Inc. and Sprint Payphone Services, Inc. from Sprint Nextel Corporation to LTD Holding Company”. Sprint Nextel filed a Notice of Request for an Allowable Ex Parte Briefing pursuant to S.C. Code Ann. Section 58-3-260, and the Commission hosted the allowable ex parte briefing on September 1, 2005, at its offices in Columbia, South Carolina.

On September 20, 2005, the Commission issued its Notice of Filing in connection with Sprint Nextel’s Application. The Notice of Filing set a deadline for Petitions to Intervene in connection with Sprint Nextel’s Application, and the transmittal letter accompanying the Notice set a deadline for Sprint Nextel to file the Proof of Publication for the Notice.

The South Carolina Office of Regulatory Staff (“ORS”) filed a letter with the Commission on October 4, 2005, stating ORS’ finding that Sprint’s request is in the public interest and recommending that the Commission approve it. Counsel for Sprint Nextel filed the required Proof of Publication for the Notice of Filing on October 20, 2005, and the October 21, 2005, deadline for Petitions to Intervene expired with no party other than ORS intervening in the matter. Subsequently, Sprint and ORS filed a Joint Motion on October 27, 2005, requesting that in light of no interventions or other opposition and in recognition of ORS’ support, we administratively approve Sprint Nextel’s Application as in the public interest. The Commission denied the parties’ Joint

Motion for procedural reasons during its agenda meeting held on November 8, 2005, and appointed David Butler as Hearing Officer and Hearing Examiner in Docket No. 2005-246-C and required Sprint to file verified prefiled testimony supporting the Application, in order that the Commission could reach its determination in the matter based on a complete evidentiary record. Pursuant to the Commission's directive, Sprint filed the verified Direct Testimony of Sprint's State Executive for South Carolina, C. Steve Parrott, on November 17, 2005.

A hearing was held December 5, 2005, at the Commission offices in Columbia, South Carolina before Hearing Examiner David Butler. Sprint was represented by Scott Elliott, Esquire. The Office of Regulatory Staff was represented by Wendy B. Cartledge, Esquire. Testifying for the Applicant was C. Steve Parrott, whose prefiled direct testimony with two exhibits was entered into evidence. The ORS supports Sprint Nextel's Application. Based on the foregoing and the evidence of record, the Hearing Examiner recommended that the Commission approve Sprint Nextel's Application.

### **III. SUMMARY OF APPLICATION AND TESTIMONY**

#### **Application**

In its Application, Sprint Nextel requests that the Commission approve the transfer of control of United, Sprint LD and SPSI from Sprint Nextel to LTD Holding Company pursuant to S.C. Code Ann. Section 58-9-310. Sprint Nextel states that it submits its Application in furtherance of its plans to separate its wireline local service operation into an independent, stand-alone operation. Application, at 2. As a result of these plans, a new holding company, LTD Holding Company, has been created and upon

receiving the necessary approvals, Sprint Nextel will transfer control of the Sprint operating companies serving local customers to LTD Holding Company. Sprint Nextel explains in the Application that the proposed transfer of control is in the public interest, and that United will continue to have the necessary managerial, technical and financial capabilities to provide service. *Id.* In addition, Sprint Nextel states that the proposed separation of the incumbent wireline operations from its current parent company, Sprint Nextel, will benefit United's residential and business customers, and will be transparent to customers. Application, at 21-23.

**Sprint's Testimony**

According to Sprint's witness, Mr. Parrott, the separation of Sprint's local telecommunications business from the rest of Sprint will result in no substantive change to United, Sprint LD and SPSI. The South Carolina entities will remain the same, and United, Sprint LD and SPSI will continue to function as separate companies, serving their local customers. The companies will continue to possess the requisite technical capabilities, managerial expertise, assets, and financial resources necessary to provide quality services. Parrott Direct Testimony, at 7. Regarding the companies' financial standing after the separation, United, SPSI and Sprint LD will continue to be financially capable of fulfilling all regulatory obligations of regulated telecommunications companies in South Carolina. After the separation, LTD Holding Company will raise capital for United, SPSI and Sprint LD and will possess the financial capability to assist the companies in providing quality service to their customers. Upon completion of the separation, LTD Holding Company will be financially secure, and its size will rank the

newly separated company in approximately the middle of the Fortune 500. The stock of LTD Holding Company is expected to be traded on the New York Stock Exchange, and it will be the largest independent, non-Regional Bell Operating Company local exchange carrier in the United States. Parrott Direct Testimony, at 18-19.

Sprint's witness further advised that after the legal separation, the only change to these entities' corporate structure will be that the ultimate owner of these companies will be LTD Holding Company instead of Sprint Nextel. The only noticeable outward change to the companies after completion of the legal separation will be that the names of United, Sprint LD and SPSI will change. Mr. Parrott explained that that the corporate name and logo for the new local company have not yet been determined, but they will be introduced on or near the effective date of the separation. Parrott Direct Testimony, at 4-5. Other than the necessary name changes, the separation will be completely transparent to the South Carolina customers of United, Sprint LD and SPSI. On the day after the separation, the companies will offer the products and services they offered in South Carolina on the day prior to separation, at the same prices and subject to the same regulations and applicable tariffs. In addition, the separation will not adversely affect the quality of service that United's customers enjoy today, or the company's ability to meet its service obligations. Parrott Direct Testimony, at 5-6.

Mr. Parrott also testified that the proposed separation is in the public interest because it will create an incumbent local exchange company whose primary focus is to build upon its local wireline experience in providing quality service to residential and business end-users in South Carolina. Because the proposed transaction will allow the

new company to clarify and refine its single-minded local vision and purpose separate and apart from the predominantly wireless, nationwide fiber optic, and global IP interests of Sprint Nextel, the transaction will have the beneficial effect of better aligning the interests of the new local company with the interests of its South Carolina customers. Accordingly, Mr. Parrott concluded his testimony by stating that because the proposed separation is in the public interest, the Commission should approve the change of control. Parrott Direct Testimony, at 20.

#### **IV. OVERVIEW AND DISCUSSION**

First of all, we note by way of context that United is one of the larger incumbent local exchange companies operating in South Carolina, serving approximately 96,000 access lines in nineteen communities in the state. United provides a full portfolio of communications services to its customers, including local, long distance, wireless, high-speed data, and video. See Parrott Direct Testimony, at 3. Upon review of the evidentiary record and the Hearing Examiner's recommendation in this matter, we find that approval of Sprint Nextel's Application is in the public interest because it will facilitate the creation of an independent, stand-alone local service operation whose primary focus will be to build upon its local wireline capabilities by providing a full portfolio of services to its residential and business customers, thus putting the company in a position to better serve the needs of its customers in the state.

In Sprint's Direct Testimony filed on November 17, 2005, Sprint's witness, Mr. Parrott, correctly points out that no party other than ORS has intervened in Sprint Nextel's Application for transfer of control. ORS is on record as actively supporting

Sprint Nextel's Application as in the public interest. Accordingly, in furtherance of the public interest, we hereby approve Sprint Nextel's Application for transfer of control. Since no party other than ORS has intervened in the matter and since ORS supports this request, we find that no party will be disadvantaged by approval of the Application at this time.

#### **V. FINDINGS OF FACT**

1. United is an incumbent local exchange company operating in South Carolina, and serves approximately 96,000 access lines in nineteen communities in the state.

2. SPSI is certificated by the Commission as a payphone service provider in South Carolina.

3. Sprint LD has applied for authority to operate as an intrastate IXC reseller in South Carolina in Docket No. 2005-238-C.

4. Sprint Nextel desires that the Commission approve the transfer of control of United, Sprint LD and SPSI from Sprint Nextel to LTD Holding Company.

5. With the exception of ORS, no Petitions for Intervention or other oppositions were filed in connection with Sprint Nextel's publication of notice.

6. ORS supports Sprint's Application as in the public interest.

7. The proposed transaction will not affect the operation of United, SPSI or Sprint LD in South Carolina, and United and SPSI will continue to provide local and payphone service, and upon approval of Sprint LD's request for IXC reseller authority in Docket No. 2005-238-C, Sprint LD will provide service, subject to existing statutes,

orders, rules, regulations and applicable tariffs.

## VI. CONCLUSIONS OF LAW

1. The Commission has jurisdiction to approve Sprint Nextel's Application for transfer of control pursuant to S.C. Code Ann. Section 58-9-310.
2. The Commission concludes that Sprint Nextel has sufficiently demonstrated that approval of the Application is in the public interest.
3. The Commission determines that Sprint Nextel's Application for transfer of control of United, Sprint LD and SPSI from Sprint Nextel to LTD Holding Company should be approved.


### IT IS THEREFORE ORDERED THAT:

1. Sprint Nextel's Application for Approval of the Transfer of Control of United Telephone Company of the Carolinas, Sprint Long Distance, Inc. and Sprint Payphone Services, Inc. from Sprint Nextel Corporation to LTD Holding Company pursuant to S.C. Code Ann. Section 58-9-310 is hereby granted; and
2. This Order shall remain in full force and effect until further Order of the Commission.

### BY ORDER OF THE COMMISSION:

  
\_\_\_\_\_  
Randy Mitchell, Chairman

### ATTEST:

  
\_\_\_\_\_  
G. O'Neal Hamilton, Vice Chairman  
(SEAL)

## BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE JOINT )  
APPLICATION OF UNITED TELEPHONE )  
COMPANY OF THE WEST, D/B/A SPRINT, )  
SPRINT LONG DISTANCE, INC., AND )  
SPRINT NEXTEL CORPORATION FOR )  
AUTHORITY TO TRANSFER CONTROL OF )  
SPRINT UNITED TELEPHONE COMPANY )  
OF THE WEST D/B/A SPRINT AND SPRINT )  
LONG DISTANCE, INC., FROM SPRINT )  
NEXTEL CORPORATION TO LTD HOLDING )  
COMPANY )

DOCKET NO. 70009-243-TA -05  
DOCKET NO. 74645-2-TA-05  
(RECORD NO. 10067)

**ORDER****(Issued December 2, 2005)**

This matter is before the Wyoming Public Service Commission upon the joint application of United Telephone Company of the West, d/b/a Sprint (United), Sprint Long Distance, Inc., (LTD Long Distance) and Sprint Nextel Corporation (Sprint) (collectively referred to as Joint Applicants) for authority to transfer control of United and LTD Long Distance from Sprint to LTD Holding Company (LTD), as more fully described below.

The Commission, having reviewed the application, its files regarding United and LTD Long Distance, applicable telecommunications law, and otherwise being fully advised in the premises, FINDS and CONCLUDES:

1. United and LTD Long Distance are telecommunications companies as defined by W.S. § 37-15-103(a)(xi) and, as such, are subject to the Commission's jurisdiction pursuant to the provisions of W.S. § 37-15-401.

2. Sprint is a publicly-traded Kansas corporation with executive headquarters in Virginia, and operational headquarters in Kansas. United is one of Sprint's incumbent local operating companies (ILEC) and is an indirect wholly owned subsidiary of Sprint with its corporate headquarters in Kansas. LTD Long Distance is a Delaware corporation which was recently formed for the purpose of providing long distance service to customers of Sprint's ILEC operations, including the customers of United. LTD Long Distance will be the long distance entity affiliated with LTD. LTD, a Delaware corporation is a newly formed subsidiary of Sprint.

3. On August 19, 2005, the Joint Applicants filed a joint application requesting authority to transfer control of United and LTD Long Distance from Sprint to LTD. The Joint Applicants stated on December 15, 2004, Sprint Corporation and Nextel Communications, Inc., (Nextel) entered into a merger agreement, pursuant to which, upon obtaining requisite Sprint and Nextel stockholder approval and satisfaction of the other conditions to the merger, Nextel would merge with and into a wholly owned subsidiary of Sprint. The conditions of the merger were satisfied and the merger closed on August 12, 2005. The new corporation's name is "Sprint Nextel Corporation." Pursuant to the merger agreement, Sprint and Nextel agreed to use their reasonable best efforts to separate the ILEC business of Sprint, by means of a tax-free-spin-off, to the then existing stockholders of Sprint. Upon the separation, LTD will become the ultimate parent of United and LTD Long Distance, along with Sprint's other ILEC operations. At that time, LTD will operate independently from Sprint and will have its own management team and board of directors. Upon separation from Sprint, LTD will be one of the largest independent local telephone



companies in the United States.

3. The Joint Applicants stated as a result of the proposed transaction, Sprint's local wireline operations will become an independent entity from Sprint. The stock of United, other Sprint ILECs, and LTD Long Distance will be contributed into LTD as well as other assets and liabilities related to the local wireline telecommunications business. United will remain the regulated ILEC in Wyoming but will have a new corporate parent. Instead of its current ultimate parent, Sprint, the ultimate new corporate parent of United will be LTD. LTD Long Distance will not change or become a new entity, but will have a new corporate parent, LTD. The names of United and LTD Long Distance will change as LTD separates from Sprint and chooses its new corporate name and brand. The joint application stated once new names are chosen, any state required registrations, filings or notifications will be provided.

4. Sprint Communications Company L.P. has been the long distance provider for United's customers who selected Sprint as their long distance provider. Upon separation, Sprint Communications Company L.P. will remain a subsidiary of Sprint. LTD Long Distance will purchase wholesale long distance service from Sprint Communications Company L.P. LTD Long Distance will continue to provide resold long distance services to customers of United.

5. In support of the joint application, the Joint Applicants averred United and LTD Long Distance will continue to have the requisite managerial, technical and financial capability to provide quality telecommunications service. The separation of Sprint's incumbent wireline operations from its parent company into an independent, stand-alone corporation will serve to create a company whose primary strategic focus will be building upon its local wireline capabilities by providing a full portfolio of quality services to residential and business customers in its local territory. Upon completion of the proposed transaction, United will continue to offer the full range of products and services at the same price and under the same terms and conditions and applicable tariffs as it currently offers its Wyoming customers. Furthermore, the Joint Applicants contended this proposed transaction will have no impact on the terms of any existing interconnection agreements or United's obligations under state and federal laws regarding interconnections.

6. On September 13, 2005, the Commission issued a *Notice of Application* which provided for a protest deadline of October 13, 2005, during which interested parties could file statements, requests for hearing or other representations with regard to the Company's application. The Notice of Application was published once per week for two consecutive weeks in the *Casper Star Tribune*. A Public Service Announcement with regard to the application was broadcast on radio five times per week for two consecutive weeks on KUWR in Laramie, Wyoming and KGOS in Torrington, Wyoming. No protests were received with regard to this matter.

7. The Commission has specific authority over this proposed transaction pursuant to the provisions of W.S. § 37-1-104 and § 37-15-408. Pursuant to the provisions of W.S. § 37-1-104, the Commission shall approve a proposed reorganization, which is defined as any transaction which results in the change of ownership of a majority of the voting stock of a public utility, or a change in the ownership or control of any entity which owns or controls a majority of the voting capital stock of a public utility unless, after public notice and opportunity for hearing, it determines that the reorganization will adversely affect the utility's ability to serve the public.

8. The Commission finds the above-described transfer of control will not adversely affect the public interest, as the reorganized company will continue to have the managerial, financial and technical ability and resources to provide telecommunications services to Wyoming customers.

IT IS THEREFORE ORDERED:

1. Pursuant to open meeting action taken on October 25, 2005, the joint application of United Telephone Company of the West, d/b/a Sprint, Sprint Long Distance, Inc., and Sprint Nextel Corporation for authority to transfer control of United Telephone Company of the West, d/b/a Sprint and Sprint Long Distance, Inc., from Sprint Nextel Corporation to LTD Holding Company as described herein, is hereby approved.

2. This Order is effective immediately.

MADE AND ENTERED at Cheyenne, Wyoming this 2<sup>nd</sup> day of December 2005.

PUBLIC SERVICE COMMISSION OF WYOMING

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STEVE FURTNEY, Chairman

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KATHLEEN A. LEWIS, Deputy Chair

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MARY BYRNES, Commissioner

(SEAL)

ATTEST:

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HARRY IVEY, Assistant Secretary